

App. No. 10/707,473
Amendment dated April 2 2006 (accompanying RCE)
Reply to Office action of December 1, 2005

REMARKS

Summary of Amendments

Independent claims 1-3 and 13 have been amended to recite the novel structure, and the novel functionality engendered by the structure, of a shoe according to the present invention. Dependent claims 4-12 remain in their original form. Claims 1-13 are pending in the continued prosecution of this application.

Claim 13 has also been amended to clarify that "the split-away part of the upper" is not the earlier-recited split between the upper and the heel side portion along the outside part of the foot, but is simply the split along which the slide fastener runs between the upper and the sole portion.

Support for Amendments

In the specification as filed, reference numeral 13 in Fig. 3 indicates what is described in paragraph [0053] (as numbered in the IFW copy of the specification) as a "seam allowance." It is noted that by definition, a seam allowance is an overlapping flap that allows a seam to be formed. Hence, it is respectfully submitted that the specification as filed provides support for the recitation that the vamp is split from and extended to overlap the quarter.

Throughout the specification as filed, beginning with the title, the slide fastener is described as zipping open "horizontally"; nowhere is it ever described as zipping in any other direction, nor do any of the figures indicated that it does. Hence, it is respectfully submitted that the specification as filed provides support for the recitation that the zipper lies substantially in only a single plane.

The recitation that the pull-tab functions to close the split between the vamp and the quarter is supported by the description, in particular with reference to Fig. 3, of the first fastening tape 10 on the pull-tab being complemented by the second fastening tape 11 on the quarter.

Interview Summary Pursuant to 37 C.F.R. § 1.133(b)

Because reconsideration is being requested in view of the telephone interview conducted on February 9, 2006 with the Examiner by Applicant's undersigned representative, on Applicant's behalf the following summary is submitted, further to the interview summary provided by the Examiner on February 14, 2006.

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- 1) A proposed claim 1 was submitted to the Examiner for discussion. Only claim 1 was discussed.
- 2) The specific prior art discussed was: Japanese Utility Model App. Pub. No. S61-66501, and French Pat. App. Pub. No. 2 617 379.
- 3) Among the principal proposed amendments discussed, those of a substantive nature were:
 - i) the vamp being split from and extended to overlap the quarter;
 - ii) the zipper lying substantially in only a single plane; and
 - iii) the zipper having a pull-tab of sufficient breadth to close the split in the vamp.
- 4) Applicant's undersigned representative explained how reciting the above limitations i) – iii) is toward distinguishing that the shoe can readily be zippered closed onto the foot in a single, simple stroke that does not require the wearer to make a turn, as would zipping on the shoe of the Japanese reference '501.

The Examiner stated that the recitation that the zipper lies in a single plane would raise a new issue (at least requiring further consideration), and possibly a new search.

The Examiner pointed out that the specification as filed might not support the recitation that the zipper has a pull-tab "of sufficient breadth to close the split in the vamp." The Examiner commented that Fig. 3 seems to indicate that this limitation is accomplished by the fastening tape 12 closing on the fastening tape 11.

The Examiner kindly suggested, as an alternative to Applicant's proposed amendment reciting that the pull-tab is "of sufficient breadth to close the split in the vamp," amending claim 1 to make clear that when the pull-tab is fastened onto the quarter, the split between the vamp and the quarter is completely closed. The Examiner pointed out that in the shoe of the French reference '379, fastening the snap 13 attached to the zipper pull 20 does not result in a complete closure of the vamp 1 onto the quarter 10E.

- 5) The issue of whether a motivation to combine either the Japanese reference '501 or the French reference '379 with the other has been *prima facie* demonstrated by the Examiner was not discussed.

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Claim Rejections - 35 U.S.C. § 103

Claims 1-3 and 13; Japanese reference (Gotoh) '501 in view of McBarron '622 and French reference (Delecolle) '379

Claims 1-3 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Utility Model App. Pub. No. S61-66501 to Gotoh, in view of U.S. Pat. No. 4,628,622 to McBarron and French Pat. App. Pub. No. 2 617 379 to Delecolle.

Under this section, the Office action states,

JP '501 discloses all the limitations substantially as claimed . . . [, except that JP '501] does not teach a first hook-and-pile fastener provided on the pull-tab[, together with a] second hook-and-pile fastener complementary to the first hook-and-pile fastener, provided on the quarter, flanking the split[, or together with] a pair of complementary second and third hook-and-pile fasteners, the second hook-and-pile fastener being provided on the quarter, alongside where the vamp splits from the quarter[, and] the third hook-and-pile fastener being provided extending from the vamp, for overlying the second hook-and-pile fastener[, with] the first and third hook-and-pile fasteners [being] fastenable to the second hook-and-pile fastener. FR '379 teaches that the pull-tab of a zipper located on a shoe can have a fastener located on it with the mating end of the fastener attached to the upper to prevent the zipper from unzipping during use. McBarron '622 teaches that hook-and-loop fasteners can be placed on the flaps alongside the zipper and protect it from the elements.

Claims 1-3 have each been amended to recite a shoe comprising, further to the other structural elements including the first and second, or first, second and third hook-and-pile fasteners discussed under this section of the Office action as quoted above in rejecting these claims:

a vamp split from and extended to overlap the quarter; and
a zipper lying substantially in only a single plane along a horizontal split between the upper and the sole, and having a pull-tab functioning to close the split between the vamp and the quarter.

The shoe as set forth in claims 1-3 is therein structured so that:

The shoe can be fastened securely onto the wearer's foot in a single-stroke, in-plane operation of zipping said vamp from the start position onto the sole to close said vamp over the wearer's foot, whereby [in the case of the shoe recited in claims 2 and 3] said third hook-and-pile fastener engagingly overlies said second hook-and-pile fastener, and

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on reaching the end position, closing the pull-tab onto said quarter to engage said first and second hook-and-pile fasteners, thereby closing said vamp completely onto said quarter along the split therebetween, without zipping in any direction orthogonal or oblique to said single plane in which said zipper lies.

Likewise, claim 13 has been amended to recite a shoe characterized in that the split-away part of the upper where it splits from the heel side portion along the outside part of the foot includes a seam allowance for overlapping the heel side portion along the split; a hook-and-pile fastener is provided on obverse/reverse sides of the seam allowance along the split-away part of the upper; the slide fastener splitting the upper horizontally lies substantially in only a single plane, and has a pull-tab functioning to close the split between the heel side portion and the upper.

The shoe as set forth in claim 13 is therein structured so that:

at the finish of a single-stroke, in-plane operation of closing the slide fastener, the second hook-and-pile fastener on the heel side portion, the third hook-and-pile fastener on the split-away part of the upper, and the first hook-and-pile fastener on the slide fastener pull-tab fasten together to close the heel side portion completely onto the upper, whereby the shoe is fastened securely onto the wear's foot.

It is respectfully submitted that no matter how combined, the references cited in rejecting claims 1-3 and 13 nowhere and in no way disclose, teach or suggest the unique combination of features achieving the unique functionality of the present invention as now set forth in amended claims 1-3 and 13.

Claims 4-6; Gotoh '501 in view of McBarron '622 and Delecolle '379, further in view of Rys-Sikora et al. '124

Claims 4-6 were rejected as being unpatentable over the Epstein, McBarron, and Delecolle references, in further view of U.S. Pat. No. 4,067,124 to Rys-Sikora et al. The rejection of these claims in the present Office action is a verbatim repetition of the rejection of these claims in the Office action of May 3, 2005.

In turn, it is respectfully submitted that for the foregoing reasons the patentability of the present application rests in now-amended claims 1-3 and 13 to begin with, and thus also in the remaining claims rejected under this section of the Office action—claims 4-6, which depend respectively from claims 1, 2 and 3.

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Claims 7-9; Gotoh '501 in view of McBarron '622 and Delecolle '379, further in view of Polifroni '273, Official Notice

Claims 7-9 were rejected as being unpatentable over the Epstein, McBarron, and Delecolle references, in further view of U.S. Pat. No. 6,557,273 to Polifroni, and in view of Official Notice. The rejection of these claims in the present Office action is a verbatim repetition of the rejection of these claims in the Office action of May 3, 2005.

In turn, it is respectfully submitted that for the foregoing reasons the patentability of the present application rests in now-amended claims 1-3 and 13 to begin with, and thus also in the remaining claims rejected under this section of the Office action—claims 7-9, which depend respectively from claims 1, 2 and 3.

Claims 10-12; references applied in rejecting claims 1-3

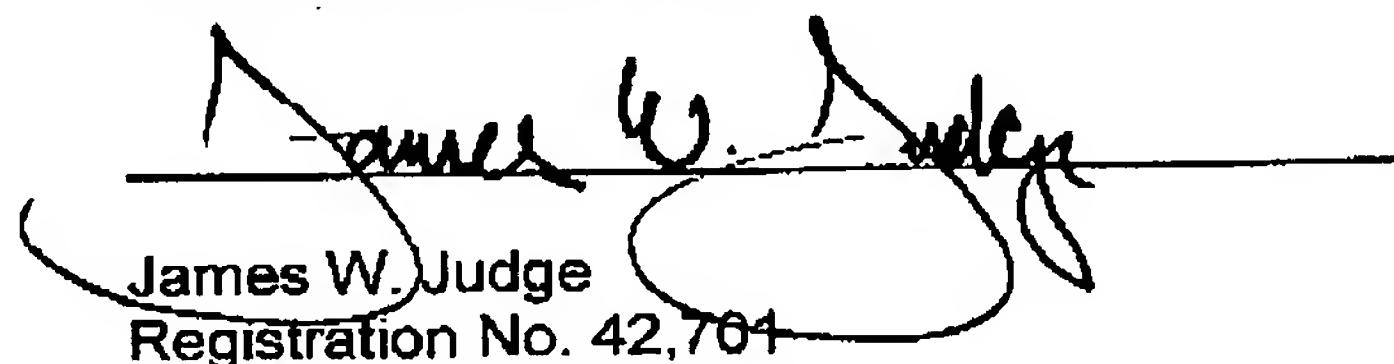
Claims 10-12 were rejected as being obvious over the same references cited in making the rejection of claims 1-3 addressed above. The rejection of these claims in the present Office action is a verbatim repetition of the rejection of these claims in the Office action of May 3, 2005.

In turn, it is respectfully submitted that for the foregoing reasons the patentability of the present application rests in now amended claims 1-3 and 13 to begin with, and thus also in the remaining claims rejected under this section of the Office action—claims 10-12, which depend respectively from claims 1, 2 and 3.

Accordingly, Applicant courteously urges that this application is in condition for allowance. Reconsideration and withdrawal of the rejections is requested. Favorable action by the Examiner at an early date is solicited.

Respectfully submitted,

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